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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Guidelines for Evaluating the)
Environmental Effects of)
Radiofrequency Radiation)

ET Docket No. 93-62

To: The Commission

COMMENTS
OF THE
NATIONAL ASSOCIATION OF BUSINESS
AND EDUCATIONAL RADIO, INC.

The National Association of Business and Educational Radio, Inc. ("NABER"), by its attorneys, in response to the Notice of Proposed Rule Making ("NPRM"), FCC 93-142 (released April 8, 1993), herewith submits its Comments in the above-referenced proceeding.¹

I. Background

NABER is a national, non-profit trade association headquartered in Alexandria, Virginia. NABER represents the large and small businesses that use land mobile radio communications as an important adjunct to the operation of their businesses and that hold thousands of licenses in the private land mobile radio and paging services. NABER has six membership sections representing Users, Private Carrier Paging

¹ The date for filing Comments in this proceeding has been extended through January 11, 1994. See, Order, DA 93-1350 (released November 9, 1993).

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licensees, System Integrators, Technicians, Specialized Mobile Radio operators, and Site Owners and Managers.

II. The Notice of Proposed Rule Making

By virtue of the NPRM, the Commission is proposing to adopt new standards for radiofrequency ("RF") radiation exposure. Specifically, the Commission proposes the adoption of new guidelines recently accepted by the American National Standards Institute ("ANSI") in association with the Institute of Electrical and Electronic Engineers, Inc. ("IEEE"), which is referred to as ANSI/IEEE C95.1-1992. The proposed guidelines are generally more restrictive than those currently specified in the Commission's rules inasmuch as they extend the frequency range under consideration to cover frequencies from 3 kHz to 300 GHz, and specify two sets of exposure recommendations -- one for "controlled environments" and another for "uncontrolled environments." The proposed guidelines also, for the first time, include specific restrictions on currents induced in the human body by RF fields.

III. NABER Supports the 1992 ANSI/IEEE Guidelines

As set forth in Paragraph 12 of the NPRM, the 1992 ANSI/IEEE guidelines specify two sets of exposure recommendations: those for "controlled environments" and those for "uncontrolled environments." NABER supports these new

guidelines. ANSI is an internationally recognized scientific organization with representation from all segments of the communications industry. The 1992 ANSI/IEEE standard is a scientifically based standard that will maintain safe uses of radio frequency energy. Since ANSI policy requires that each of its standards or guidelines be reviewed at five-year intervals, NABER believes that the new guidelines are the by-product of the most up-to-date information and analysis.

NABER also supports the general guidance of the definitions of a "controlled" and "uncontrolled" environment. Uncontrolled criteria should apply to Part 22 and Part 99 communications devices. However, Part 90 land mobile and Part 94 private microwave devices should be classified as "controlled" since such communications devices are more complex in nature and require a greater degree of education as a prerequisite to use.

The Commission should recognize, however, that not all communications devices can be neatly classified for controlled or uncontrolled environments. To the extent necessary, NABER encourages the Commission to entertain case-by-case classifications. Also, to the extent scientific advances permit derivations of previously classified devices, the Commission should determine whether such derivations require a different classification than the predecessor device. In such cases, the burden should be placed upon the

manufacturer/user to convince the Commission to separately classify any new or derivative device.

IV. Existing Categorical Exclusions

NABER's technical advisors have reviewed numerous current studies regarding RF Radiation, as well as the public comments filed in General Docket No. 79-144./² The comments filed in that proceeding demonstrate that users and employees are not normally exposed to harmful levels of RF energy. Accordingly, NABER believes that the Commission should adopt the ANSI provisions for low-power exclusions. NABER believes that exclusions based upon radiated power should not apply when the radiating device is operated within 2.5 cm of the body. Finally, NABER believes that a majority of Part 90 and Part 94 devices should be governed by the "controlled" environment exclusion./³

In Paragraph No. 17 of the NPRM, the Commission seeks comments regarding how proof of compliance should be demonstrated. NABER believes that it is the responsibility of the manufacturers to ensure that intrinsically safe equipment is available for the public. All end user equipment

² In a Report and Order in General Docket No. 79-144, 100 FCC D 543 (1985), the Commission decided that human exposure to RF radiation was a proper environmental concern of the FCC and specified that the guideline for determining the significance of such exposure would be ANSI C95.1 - 1982.

³ In some cases, such as for cellular hand-held portables, the low power exclusion would not apply since the device is often held right up to the user's ear and mouth.

be subject to specific absorption rate testing as part of the FCC type-acceptance process, and all such equipment should be required to contain a label that certifies its safety and compliance. It is also recommended that all equipment manufacturers be required to provide manuals and pamphlets with each device which demonstrates how the equipment should be installed and maintained to ensure safe operations.

In Paragraph 20 of the NPRM, the Commission requests comment, information and analysis relating to the existing categorical exclusions from its RF exposure rules, as well as the impact of eliminating an exclusion from the RF exposure rules for specific services, facilities and operations. NABER is concerned that if many of the existing categorical exclusions are eliminated, many of the manufacturers of radio based systems in common use would have to institute unnecessary and costly testing. These systems include garage door openers, electronic door locks and other similar low power radio systems that are so sporadically used by the consumer that RF exposure is infinitesimal. If these kinds of categorical exclusions are eliminated, the cost of many popular consumer products would unjustifiably increase to offset the cost of complying with overly burdensome and unnecessary federal regulations.

In Paragraph 21 of the NPRM the Commission invites comments on whether categorical exclusions should be limited to situations where there is no possibility of excessive

worker exposure. Currently the Commission provides categorical exclusions for certain Part 22, Part 90 and Part 94 devices. Since substantially all existing Land Mobile equipment already comply with the 1992 ANSI/IEEE guidelines, NABER encourages the Commission to adopt identical categorical exclusions for these Land Mobile service parts. In addition, once the Commission's new guidelines in this area become "final," there should be an amnesty period established in which manufacturers and users may verify the safety of their equipment and installations and take whatever corrective measures may be necessary.

In Paragraph 21 of the NPRM the Commission asks that, when work procedures have clearly been established that preclude worker exposure near high-powered, transmitting antennas, should certification of such procedures be required for previously excluded transmitters before granting a license or other FCC authorization. NABER believes that additional work is required in developing approved testing and measurement procedures before any proposed rules in this area are implemented. The licensee should be responsible for insuring that the equipment is installed and operated in a safe manner. As part of the licensing process, an applicant should only be required to affirm the safety and compliance of the subject equipment. Generally, the industry should be self-policing. However, the Commission should utilize its enforcement powers by randomly inspecting equipment in

response to specific or recurring public complaints. If an applicant is later found to have falsely certified its equipment, the Commission should implement its standards for assessing forfeitures as it does in response to other rules violators.

V. Alternative RF Exposure Guidelines

Paragraphs 23, 24 and 25 of the NPRM invite comment on a variety of alternative RF exposure guidelines. While the Commission recognizes that the 1992 ANSI/IEEE guidelines are more restrictive than the 1982 ANSI standards, there are still some questions as to whether the differences between the two standards are significant, and whether there is a need to adopt exposure requirements different than those contained in the new guidelines. NABER supports the new guidelines since all significant known effects are accounted for in the new guidelines. Furthermore, NABER supports the process used by the ANSI/IEEE standard.

VI. Other Related Issues

Paragraph 27 of the NPRM requests comment on whether the Commission should routinely require more complete documentation or evidence from applicants who claim compliance with environmental RF guidelines. NABER opposes this aspect of the proposal. The licensee should be responsible for insuring that the equipment is installed and operated in a

safe manner. As part of the licensing process, an applicant should only be required to affirm the safety and compliance of the subject equipment. Generally, the industry should be self-policing. However, the Commission should utilize its enforcement powers by randomly inspecting equipment in response to specific or recurring public complaints. If an applicant is later found to have falsely certified its equipment, the Commission should implement its standards for assessing forfeitures as it does in response to other rules violators.

VII. Measurement Procedures

Paragraph 28 of the NPRM invites comments on RF measurement guidelines and any other measurement procedures that might be relevant. This is an area that requires further review and analysis. The complex nature of near-field electromagnetic wave theories requires a complete evaluation of measurement guidelines and procedures. The only effective way of insuring safety of operation is to empower an industry group with the responsibility of developing these procedures. Such a task will require considerable time. Therefore the Commission should immediately commence efforts to select an industry group and empower it with authority to develop a scope statement and deadline for completion.

VIII. Conclusion

NABER welcomes the opportunity to present its opinion on the matters at issue in this proceeding. Should the Commission request additional information from NABER, or solicit its assistance in the establishment and operation of an industry group to further address ongoing RF radiation issues, NABER would readily cooperate.

Respectfully submitted,

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